

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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|----------------------------------|---|------------------------------------|
| UNITED STATES OF AMERICA, |) | CASE NOS. 1:02-CR-00012-001 |
| |) | |
| Plaintiff, |) | 4:02-CR-00395-001 |
| |) | 4:02-CR-00487-001 |
| |) | 1:02-CR-00490-001 |
| vs. |) | |
| |) | JUDGE BENITA Y. PEARSON |
| JEFFREY P. SULASKI, |) | |
| |) | |
| Defendant. |) | <u>ORDER</u> |

On December 3, 2002, the Defendant, Jeffrey P. Sulaski, was sentenced in the Northern District of Ohio to ninety-seven (97) months imprisonment, followed by three (3) years of supervised release, for bank robbery, a Class C felony. His supervised release commenced on August 7, 2009. Because of family ties in the area, Defendant was supervised by a probation officer of the Eastern District of Wisconsin.

On or about March 23, 2011, the Defendant's probation officer submitted a violation report alleging the following violation of the terms of supervised release:

1. **Failure to Report to the Probation Officer:** Pursuant to documentation received by the United States Probation Office for the Eastern District of Wisconsin, Mr. Sulaski has absconded from supervision.

The matter was referred to Magistrate Judge Kenneth S. McHargh to conduct the appropriate proceedings, except for sentencing, and to prepare a Report and Recommendation. On June 27, 2011, Defendant appeared before the Magistrate Judge for a violation hearing and was represented by appointed counsel Timothy C. Ivey of the Office of the Federal Public Defender. At the hearing, Defendant admitted the violation as charged in the March 23, 2011 Violation Report.¹ Defendant was remanded to the custody of the U.S. Attorney General pending sentencing. The Magistrate Judge issued a report recommending that the Court find that Defendant has violated the terms of his supervised release. To date, no objections to the Report and Recommendation have been filed and the period for posing objections has expired.

The Court has reviewed the Report and Recommendation and finds that it is well-supported. The Court adopts the Report and Recommendation and finds that Defendant has admitted the violation as charged and that, by so doing, Defendant has violated the terms of his supervised release and committed a Grade C violation.

Prior to imposing sentence and based upon the record before the Court, the Court has considered that the statutory maximum sentence of imprisonment that can be imposed is two years pursuant to 18 U.S.C. § 3583(e)(3). The Court has also considered the advisory policy statements set forth in Chapter Seven of the United States Sentencing Guidelines. The advisory guideline range is 4-10 months pursuant to U.S.S.G. § 7B1.4(a). Defendant's

¹ A nearly duplicate report was produced and dated March 25, 2011.

Criminal History Category is II. In addition to this information, the Court has considered the factors for sentencing listed in 18 U.S.C. § 3553(a) and 3583(d).

Based upon all that has been considered, the Court has developed the following reasons for the sentence imposed. Given the nature and circumstances of the (violation) offense and the history and characteristic of Defendant, it appears that Defendant has lived an itinerant lifestyle, including recent periods of homelessness. While homelessness is no justification for Defendant's violation, the lack of a stable home following the death of his mother may have encouraged Defendant's failure to maintain a routine of reporting as ordered. A term of incarceration would deter similar conduct in the future. The kinds of sentence to be imposed is constrained by Defendant's absconding which makes his removal from the community, at least for a while, imperative and encourages incarceration. Continued supervision after Defendant's release from incarceration with an emphasis on lifeskills and job training will hopefully assist Defendant in obtaining work and making better life choices.

The Court hereby **ADOPTS** the Magistrate Judge's Report and Recommendation. Based upon the Court's review of all relevant factors, the Court hereby orders that Defendant's supervised release is **REVOKED**, and Defendant is sentenced to six (6) months incarceration to be followed by twelve (12) months of supervised release. The same conditions imposed originally remain, to wit:

- (1) Firearm Prohibition;
- (2) Substance Abuse Aftercare;

- (3) Mental Health Aftercare;
- (4) Special Assessment of \$1,100 (balance due \$413.06);
- (5) Restitution in the Amount of \$201,857.88 (balance due \$201,857.88); and
- (6) Provide Probation Officer with Requested Financial Information.

Defendant has been advised of his right to appeal the Court's ruling and of the Court's willingness to appoint counsel to assist him with that appeal should he not be able to afford counsel.

IT IS SO ORDERED.

August 9, 2011
Date

s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge